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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

BRAXTON BERKLEY,

Petitioner,

v.

AMY MILLER, WARDEN,

Respondent.

NO. EDCV 13-1745-JGB (MAN)

ORDER ACCEPTING FINDINGS AND
RECOMMENDATIONS OF UNITED STATES
MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of Habeas Corpus ("Petition"), all of the records herein, the Report and Recommendation of United States Magistrate Judge ("Report"), and Petitioner's Objections to the Report. Pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), the Court has conducted a *de novo* review of those portions of the Report to which objections have been stated.

Petitioner has included with his Objections a declaration and a document that were not presented to the Magistrate Judge. A district court has discretion, but is not required, to consider evidence or arguments presented for the first time in objections to a report and recommendation. See Brown v. Roe, 279 F.3d 742, 744-45 (9th Cir. 2002); United States v. Howell, 231 F.3d 615, 621-22 (9th Cir. 2000). The Court has exercised its discretion to consider this new evidence, but concludes that they do not affect or alter the analysis and conclusions set forth in the Report.

1 The Court accepts the findings and recommendations set forth in the Report. Accordingly,
2 IT IS ORDERED that: (1) the Petition is DENIED; and (2) Judgment shall be entered dismissing
3 this action with prejudice.

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5 LET JUDGMENT BE ENTERED ACCORDINGLY.

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7 DATED: May 15, 2014.

A handwritten signature in black ink, appearing to read 'JGB', with a long horizontal flourish extending to the right.

9 JESUS G. BERNAL
10 UNITED STATES DISTRICT JUDGE
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